

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

UNITED STATES OF AMERICA, ) CR. NO. 7:24-CR-281  
 ) GREENVILLE, SC  
 ) JUNE 25, 2024  
 )  
 VERSUS )  
 )  
 MELVIN ANTONIO )  
 EUGENE MAXWELL, )  
 )  
 DEFENDANT. )  
 )

BEFORE THE HONORABLE HENRY M. HERLONG  
UNITED STATES SENIOR DISTRICT COURT JUDGE  
CHANGE OF PLEA HEARING

## APPEARANCES:

FOR THE GOVERNMENT: MAXWELL B. CAUTHEN, AUSA  
UNITED STATES ATTORNEY'S OFFICE  
55 BEATTIE PLACE  
SUITE 700  
GREENVILLE, SC 29601

FOR THE DEFENDANT: BENJAMIN T. STEPP, AFD  
FEDERAL PUBLIC DEFENDER'S  
OFFICE  
TWO LIBERTY SQUARE  
75 BEATTIE PLACE  
SUITE 950  
GREENVILLE, SC 29601

COURT REPORTER: DEBRA R. BULL, RPR, CRR  
UNITED STATES COURT REPORTER  
315 SOUTH MCDUFFIE STREET  
ANDERSON, SC 29624

## STENOTYPE/COMPUTER-AIDED TRANSCRIPTION

\*\*\* \*\*\* \*\*\* \*\*\* \*\*\*

1 (Whereupon, the hearing commenced at 9:59 a.m.)

2 THE COURT: Thank you, be seated, please.

3 You may call the case.

4 MR. CAUTHEN: May it please the Court, Your  
5 Honor. Judge, we are here this morning on case number  
6 7:24-281, United States versus Melvin Antonio Eugene  
7 Maxwell. He is pleading guilty to his Indictment with  
8 -- under a conditional guilty plea and he is represented  
9 by Mr. Ben Stepp.

10 THE CLERK: Please raise your right hand.

11 MELVIN ANTONIO EUGENE MAXWELL, having been first  
12 duly sworn, testified as follows:

13 EXAM

14 BY THE COURT:

15 Q. Mr. Maxwell, have you had enough time to discuss  
16 this matter with your attorney?

17 A. Yes, sir.

18 Q. Are you satisfied thus far with the representation  
19 of your attorney?

20 A. Yes, sir.

21 Q. Do you have any complaints of your attorney or  
22 anyone else in connection with this case?

23 A. I don't understand what you mean.

24 Q. Do you have any complaints of your attorney or  
25 anyone else in connection with this case?

1 A. No, sir.

2 Q. Okay.

3 What is your full name?

4 A. Melvin Antonio Eugene Maxwell.

5 Q. And how old are you?

6 A. Thirty-nine years old.

7 Q. How far did you go in school?

8 A. Got a GED.

9 Q. Have you ever been treated for any type of mental  
10 condition?

11 A. No, sir.

12 Q. This morning, are you under the influence of any  
13 type of alcohol, drug, or medicine?

14 A. No.

15 THE COURT: Mr. Stepp, do you have any question  
16 as to his competence?

17 MR. STEPP: No, Your Honor.

18 THE COURT: I will be going over this guilty plea  
19 with you. I will be advising you of what your rights  
20 are in connection with a jury trial and the fact that  
21 you are giving up your right to a jury trial by pleading  
22 guilty. This is what we call a conditional guilty  
23 plea. What that means is it is a guilty plea like any  
24 other guilty plea except, under these circumstances with  
25 the consent of the Government and with the consent of

1 the Court, you are allowed to plead guilty but maintain  
2 your right to appeal the Court's ruling in the  
3 suppression hearing that we had the other day. You can  
4 raise that issue with the Court of Appeals, and if the  
5 Court of Appeals rules in your favor, then that evidence  
6 would not be allowed -- and I don't know if the  
7 Government has taken a position on this, but it is more  
8 than likely that would be the end of the case?

9 MR. CAUTHEN: Possibly, Your Honor; I haven't  
10 thought that far ahead, to be honest.

11 THE COURT: Right. But you would have a chance,  
12 that evidence, which your attorney pursued with the  
13 Motion to Suppress, if my decision is reversed, that  
14 evidence would not be allowed and you would have a  
15 chance to be acquitted.

16 MR. STEPP: Judge, I think the rule says if the  
17 Court of Appeals reverses the District Court ruling that  
18 the Defendant would have a right to withdraw his plea.  
19 And then it just goes from there.

20 THE COURT: I think that is correct. I  
21 appreciate you pointing that out, then this plea would  
22 not be binding and then we could proceed, that is a  
23 better understanding. We rarely do these and that is  
24 why it is an unusual circumstance.

25

1

## EXAM CONTINUED

2 BY THE COURT:

3 Q. You would not be -- if the Court of Appeals  
4 agreed with your position that that evidence should have  
5 been suppressed and then you would not be bound by the  
6 guilty plea and proceed from there; do you understand?

7 A. Yes, sir.

8 Q. But with the understanding that you wish to appeal  
9 that issue, which you will have the right to do because  
10 this is a conditional plea, if the Court of Appeals  
11 rules against you, then you would be bound by the  
12 sentence that you will receive and the imposition of  
13 guilt on this charge; do you understand that?

14 A. Yes, sir.

15 Q. Now, I am going to go through my advice to you on  
16 what it means by pleading guilty and what you are giving  
17 up by way of a jury trial. And during this proceeding  
18 this morning, if anything I say or ask of you which is  
19 unclear to you, you could make that known to the Court  
20 and the Court will explain it further. And during this  
21 proceeding, you have the right to stop and confer with  
22 your attorney at any time that you have a question; do  
23 you understand that?

24 A. Yes, sir.

25 Q. The Indictment charges in Count 1 that on or about

1       November 27th, 2023, in the District of South Carolina,  
2       that you knowingly -- did knowingly possess a firearm,  
3       which had been shipped and transported in interstate and  
4       foreign commerce, that is a Llama .45 caliber pistol,  
5       you having been previously convicted of a crime  
6       punishable by imprisonment for a term exceeding one year  
7       and knowing that you had been convicted of such a crime.  
8       Do you understand what you are charged with in Count 1  
9       of the Indictment?

10      A.       Yes, sir.

11      Q.       The elements of this offense are as follows:  
12       That you had previously been convicted in a court of a  
13       crime punishable by imprisonment for a term exceeding  
14       one year; that you had previously been convicted --  
15       that you knew you had previously been convicted in a  
16       court of a crime punishable by imprisonment for a term  
17       exceeding one year; that after this conviction you  
18       knowingly possessed the firearm and ammunition described  
19       in the Indictment; and the possession was in or  
20       affecting commerce because the firearm and ammunition  
21       had travelled in interstate or foreign commerce at some  
22       point during their existence. Those are the basic  
23       elements of the -- Count 1 of the Indictment, felon in  
24       possession; do you understand those elements?

25      A.       Yes, sir.

1 Q. The statute provides for a maximum sentence of ten  
2 years and/or a fine of \$250,000, supervised release of  
3 up to three years, and a Special Assessment of \$100; do  
4 you understand that?

5 A. Yes, sir.

6 MR. CAUTHEN: Your Honor, may I interrupt --

7 THE COURT: Yes.

8 MR. CAUTHEN: -- please, sir? That is an error on  
9 my part. It should be imprisonment for not more than  
10 fifteen years; it is not a mandatory, this offense  
11 occurred after the law changed, so it would be up to  
12 fifteen years; the rest of the penalties remain the  
13 same.

14 EXAM CONTINUED

15 BY THE COURT:

16 Q. I am informed, I will correct what I said to you  
17 as far as the sentencing provisions, it is imprisonment  
18 for not more than fifteen years; do you understand that?

19 A. Yes, sir.

20 Q. Count 2 charges that on or about November 27th,  
21 2023, in the District of South Carolina, that you  
22 knowingly, intentionally, and unlawfully possessed a  
23 quantity of cocaine base, commonly known as crack  
24 cocaine, and that they are both -- and coke, excuse me,  
25 a quantity of cocaine base and cocaine, both Scheduled

1       Two controlled substances. That is what you are  
2       charged with in Count 2; do you understand that?

3       A.       Yes, sir.

4       Q.       The elements of this offense are as follows: That  
5       you knowingly and intentionally possessed the controlled  
6       substance described in the Indictment; that at the time  
7       of such possession, you knew that the substance you  
8       possessed were controlled substances; and that you did  
9       not possess the controlled substances pursuant to a  
10       valid prescription or order, those are the basic  
11       elements; do you understand that?

12      A.       Yes, sir.

13      Q.       For this Count 2, the statute provides for a  
14       maximum sentence of one year imprisonment, a fine of  
15       1 million dollars, and a Special Assessment of \$100.

16       MR. CAUTHEN: That is \$1,000, Your Honor.

17       THE COURT: I'm sorry, you are right.

18                   EXAM CONTINUED

19       BY THE COURT:

20      Q.       The sentencing provision is a maximum penalty of  
21       one year imprisonment, a fine of \$1,000, and a Special  
22       Assessment of \$100; do you understand that?

23      A.       Yes, sir.

24      Q.       As to each of these Counts, understanding what you  
25       are charged with, what the elements of the offenses

1       are, and what the statutory sentencing provisions could  
2       be, do you still wish to plead guilty?

3       A.       Yes, sir.

4       Q.       Although you are offering to plead guilty, you  
5       are still presumed innocent. You have the right to a  
6       jury trial, and at a jury trial you would be presumed  
7       innocent throughout the trial. The burden of proof  
8       would be on the Government to prove your guilt beyond a  
9       reasonable doubt. The Government would have to do that  
10      by calling witnesses or introducing any other relevant  
11      evidence into the case. And if the Government called  
12      any witnesses, you would have the right to  
13      cross-examine those witnesses. You would be entitled  
14      to representation by your attorney throughout the trial.  
15      Your attorney would represent you throughout the trial.

16               And during the trial, after the Government  
17      presents its evidence, you would have the right, if  
18      you chose to do so, to testify, but you would not be  
19      required to testify because a defendant has the right to  
20      remain silent during a trial and not testify, and the  
21      jury would be instructed that if a defendant chose to  
22      remain silent and not testify, that fact could not be  
23      held against you. You could call witnesses in your  
24      defense, you could introduce any other relevant  
25      evidence in your defense, but you would not be required

1 to call any witnesses or to testify or to produce any  
2 evidence because, as I said earlier, the burden of  
3 proof is always on the Government to prove a defendant  
4 guilty beyond a reasonable doubt and a defendant does  
5 not have to prove his innocence.

6 You would be entitled to a jury trial, and  
7 before you could be found guilty, the verdict of the  
8 jury would have to be unanimous, which means each and  
9 every juror would have to be convinced of your guilt  
10 beyond a reasonable doubt.

11 Furthermore, the jury would be instructed that  
12 if the Government failed in its burden of proof, the  
13 jury would be required to find you not guilty.

14 Those are certain rights that you have in  
15 connection with the jury trial; do you understand those  
16 rights?

17 A. Yes, sir.

18 Q. Understanding that, do you still wish to plead  
19 guilty?

20 A. Yes, sir.

21 Q. And do you understand that by pleading guilty you  
22 are giving up those rights in connection with a jury  
23 trial?

24 A. Yes, sir.

25 Q. Has anyone threatened, forced, or coerced you in

1       any way to get you to plead guilty?

2   A.       No, sir.

3   Q.       Are you pleading guilty because you are guilty?

4   A.       Yes, sir.

5   Q.       Has anyone, including your attorney, promised  
6       you what your actual sentence will be?

7   A.       No, sir.

8   Q.       We have sentence guidelines in Federal Court.

9       Following a plea of guilty, the United States Probation  
10      office will prepare a Presentence Report for the Court,  
11      and in that Presentence Report, among other things,  
12      there will be a guideline calculation that applies in  
13      your case. Once the Report is finalized, you will  
14      get-- you and your attorney are given a copy of the  
15      Report, the Government is given a copy of the Report  
16      and if there are any objections in the Report, which  
17      could not be resolved, you would be entitled to a  
18      hearing before the Court to resolve any objections.

19       The Court is required to consider the guideline range  
20      that applies in your case, but the guidelines are  
21      advisory only and the Court may impose a sentence which  
22      is more severe or less severe than that called for by  
23      the guidelines; do you understand that?

24   A.       Yes, sir.

25   Q.       I further tell you that if you are sentenced to a

1 term of imprisonment, you will also be sentenced to an  
2 additional term of supervised release. And should you  
3 violate any conditions of the supervised release, you  
4 could be sentenced to an additional term of  
5 imprisonment; do you understand that?

6 A. Yes, sir.

7 THE COURT: At this time I will ask the  
8 Government to summarize the facts in your case. Listen  
9 carefully, when the Government finishes summarizing, I  
10 will ask you whether you agree with those facts and  
11 whether you are, in fact, guilty.

12 All right, sir.

13 MR. CAUTHEN: May it please the Court.

14 Your Honor, on November 27th of 2023, on  
15 Highway I-85 in Spartanburg County, Deputy Dorset  
16 observed a vehicle being driven by the Defendant, who  
17 was continually riding in the far left lane of the  
18 highway, which is referred to as the passing lane.  
19 Other vehicles would come up behind his car, have to  
20 change lanes, go around him to get back over. So  
21 after watching him drive in the passing lane for some  
22 distance, the deputy then initiated his blue lights to  
23 pull Mr. Maxwell over.

24 Mr. Maxwell immediately began to pull over and  
25 change lanes, but in doing so did not use a turn signal.

1                   He then pulled over to the shoulder the interstate.

2                   As Deputy Dorset approached his vehicle, they  
3                   had a conversation about his riding in the passing lane.

4                   Mr. Maxwell was cooperative, provided his information.

5                   Also that it was a rental car that he was in and he was  
6                   heading back to North Carolina, I believe, he

7                   indicated. The deputy was going -- was preparing  
8                   tickets to issue him, when he came back to the car, he  
9                   indicated to Mr. Maxwell that he would like for him to  
10                   get out of the car to talk with him because he smelled  
11                   the odor of marijuana emanating from the car.

12                   Mr. Maxwell disagreed with that, and after a short  
13                   period of time put his car back in drive and sped off  
14                   from the stop.

15                   He went up the interstate a distance and got off  
16                   on Highway 290, we refer to as Highway 290 there in  
17                   Duncan and took a right where he started to turn into a  
18                   QT gas station, lost control of his vehicle, and  
19                   wrecked. He then got out and ran on foot. Deputy  
20                   Dorset and other officers, who had responded to the  
21                   scene, pursued him and were able to catch him on foot.  
22                   They walked him back to his vehicle. Deputy Dorset  
23                   then searched the vehicle based upon the odor of  
24                   marijuana coming from it, also notified the rental  
25                   company -- was notified that the car was wrecked and

1       they were going to conduct an inventory search pursuant  
2       -- before it was towed off.

3               In doing the search, they found in a backpack  
4       two digital scales, the .45 caliber pistol that was  
5       contained in the Indictment, and it was painted such  
6       that you could not see the serial number. They also  
7       recovered a quantity of crack cocaine, and cocaine, and  
8       some marijuana. It was only 1.39 grams of cocaine and  
9       1.89 grams of marijuana.

10              ATF responded to the scene and Special Agent  
11       Mercer went to the detention center after he was taken  
12       into custody and met with Mr. Maxwell, advised him of  
13       his Miranda rights, he indicated he understood those  
14       and agreed to speak with the agents. And I believe the  
15       other agent was David Pate. Mr. Maxwell was  
16       cooperative, he indicated that he had gotten the  
17       pistol, that it was his and that he had painted it  
18       because that is what he prefers to do with his pistols.

19              Prior to that date, Your Honor, he had been  
20       convicted of a crime for which he could have received  
21       more than a year in prison and did, in fact, receive  
22       more than a year in prison in 2011 in Federal Court in  
23       North Carolina for felon in possession of a firearm, and  
24       then again in 2017 in Federal Court in North Carolina  
25       for felon in possession of a firearm. He has not

1 received a pardon.

2                   When ATF performed an examination of the pistol,  
3 they were able to recover the serial number from it,  
4 they just used some chemicals to dilute the paint. They  
5 determined the pistol was manufactured outside of the  
6 state of South Carolina and, therefore, had travelled  
7 in interstate commerce to reach South Carolina.

8                   EXAM CONTINUED

9 BY THE COURT:

10 Q.            Mr. Maxwell, having heard that summary by the  
11 Government, do you agree with it?

12 A.           Not with the stop I don't.

13 Q.           Pardon?

14 A.           Not with the stop I don't. That is not how that  
15 went, but the rest of the stuff, I agree with that.

16                   MR. STEPP: On the part regarding the car stop on  
17 the side of the road, the Government's recitation was  
18 essentially what the Court heard, what we all heard last  
19 week.

20                   THE COURT: I understand he disputes that, but he  
21 does not dispute the fact that he was in possession of  
22 the pistol knowing that he was a convicted felon,  
23 knowing that he was not allowed to have the weapon and  
24 the ammunition, and he doesn't dispute the fact that he  
25 was in possession of that quantity of drugs as set forth

1 in Count 2?

2 MR. STEPP: Do you agree with that?

3 THE WITNESS: I agree with that.

4 EXAM CONTINUED

5 BY THE COURT:

6 Q. And did you, as charged in the Indictment, as  
7 charged in Count 1 of the Indictment, unlawful to  
8 possess a firearm, which had been shipped in interstate  
9 commerce, you having been previously convicted of a  
10 crime punishable by imprisonment to a term exceeding one  
11 year and knowing that you had been convicted as is fully  
12 set forth and alleged in Count 1 of the Indictment?

13 A. Yes, sir.

14 Q. And did you, as charged in count 2 of the  
15 Indictment, on or about November 27th, 2023, in the  
16 District of South Carolina, knowingly possess a  
17 quantity of crack cocaine and cocaine as is fully set  
18 forth and alleged in the Indictment?

19 A. Yes, sir.

20 Q. And are you guilty of Counts 1 and 2 of the  
21 Indictment?

22 A. Yes, sir.

23 THE COURT: You may sign your plea at this time.  
24 (Defendant complies.)

25 THE COURT: The Clerk may publish.

1                   THE CLERK: May it please the court. The  
2 Defendant, Melvin Antonio Eugene Maxwell, has withdrawn  
3 his plea of not guilty and has entered a plea of guilty  
4 as to Counts 1 and 2 of the Indictment after arraignment  
5 in open Court.

6                   THE COURT: It is the finding of the Court in the  
7 case just published that the Defendant is fully  
8 competent and capable of entering an informed plea, his  
9 plea of guilty is a knowing and voluntary plea supported  
10 by an independent basis in fact containing each of the  
11 essential elements of the two Counts in the Indictment.  
12 He is now adjudged guilty of Counts 1 and 2 of the  
13 Indictment and his plea of guilty is accepted.

14                   That is all until sentencing, thank you.

15                   MR. CAUTHEN: Thank you, Your Honor.

16                   MR. STEPP: Judge, may I take up a matter of bail  
17 with the Magistrate?

18                   THE COURT: As I ruled the other day, and  
19 especially since he has entered a plea of guilty, under  
20 the circumstances of his record of which I am familiar  
21 with and what I have heard today, I don't think that he  
22 should be allowed to be out on bail and he should remain  
23 in custody.

24                   Thank you.

25                   MR. CAUTHEN: Your Honor, is it your finding,

1                   simply for the record, that he presents a potential  
2                   danger to the community and a possible flight risk.

3                   THE COURT:   Both of those.

4                   MR. CAUTHEN: Yes, sir. Thank you, sir.

5                   MR. STEPP: Judge, he has been in compliance with  
6                   his bond since he was put on bond, and since the state  
7                   and the people in North Carolina altered his supervised  
8                   release conditions and he has had surgery back in April,  
9                   he was supposed to continue on rehab on the surgery, in  
10                   fact he had -- the medical reports I see show that he  
11                   was supposed to be scheduled for another follow up on  
12                   rehab tomorrow. If he doesn't get these things over a  
13                   period of time, then the surgery that he had on his  
14                   shoulder will not -- and the rehab -- if he doesn't get  
15                   rehab, he tells me, the surgery that they did will  
16                   freeze up and he may have to have all of this stuff  
17                   redone again.

18                   THE COURT:   Has he been to physical therapy  
19                   already?

20                   THE DEFENDANT: I have been to two classes. I  
21                   still got --

22                   THE COURT: And they gave you some exercises to  
23                   do?

24                   THE DEFENDANT: No, they have just been doing  
25                   them with me.

1                   THE COURT:    They told you how to do them?

2                   THE DEFENDANT:   They are just showing me how to  
3                   do them,    doing it with balls and stuff like that on the  
4                   wall.    The doctor, like, I even self-surrendered, they  
5                   told me to turn myself in.    Nobody had to pick me up.

6                   THE COURT:    I am saying when you went to the  
7                   physical therapy following -- you had surgery on your  
8                   shoulder?

9                   THE WITNESS:   Yes.

10                  THE COURT:    When was that?

11                  THE WITNESS:   That was April 24th.

12                  THE COURT:    Okay.    And following the surgery,  
13                  you went two times to physical therapy.

14                  THE DEFENDANT:   I went two times, that is when  
15                  they scheduled that.

16                  THE COURT:    You should follow up and do the  
17                  exercises that they told you to do,   but I am going to  
18                  deny his request for bond under the circumstances --  
19                  totality of the circumstances as to he is now convicted  
20                  -- he is now a recently convicted felon -- out-of-state  
21                  felon, who I find, under the circumstances, is not  
22                  entitled to bond as the question was asked as to a  
23                  flight risk and a danger to the community.   He  
24                  obviously doesn't adhere and the fact that he is a  
25                  prohibited person to possess a firearm doesn't mean

1 anything, he still possessed a firearm. I believe you  
2 said he had two previous convictions of felon in  
3 possession?

4 MR. CAUTHEN: Yes, sir.

5 THE COURT: This will be the third?

6 MR. CAUTHEN: Yes, sir.

7 THE COURT: Okay. That is all. We stand  
8 adjourned.

9 (Whereupon, the hearing concluded at 10:25 a.m.)

10 \*\*\* END OF REQUESTED TRANSCRIPT \*\*\*

11 \* \* \* \* \*

12 CERTIFICATE OF REPORTER

13 I certify that the foregoing is a correct  
14 transcript from my stenographic notes in the  
15 above-entitled matter.

16

17

18

19

20 S/Debra R. Bull, RPR, CRR January 5, 2025  
21 Date

22

23

24

25